IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FIRST DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

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WRIT PETITION NO : 7087 of 2005

Between:

R. Srikantha Reddy, S/o. Sambi Reddy,
Regd.No. Y2PH221, R/o. Kaza Village,

Mangalagiri Mandal, Guntur District.

....PETITIONER

AND

1. The Acharya Nagarjuna University,

Rep. by its Registrar, Nagarjunanagar,

Guntur District.

2. The Controller of Examinations,

Acharya Nagarjuna University,
Nagarjunanagar, Guntur District.

3. The Principal, Hindu College of Pharmacy,

Guntur, Guntur District.

...RESPONDENTS

* * *

ORDER:

The writ petitioner is a B-Pharmacy student in Hindu College of Pharmacy, Guntur, Guntur District. He assails the action of the respondents in not permitting him to appear III year examination of B-Pharmacy scheduled from 28-03-2005. He joined in B-Pharmacy course in Hindu College of Pharmacy, Guntur, Guntur District, third respondent in the month of October, 2002. He appeared for first year B-Pharmacy examination in August, 2003 and passed in December, 2003. He took second year B-Pharmacy examination in the month of June, 2004. Out of 8 papers in theory examination, he passed in 3 papers and secured 689 marks in total. According to the rules, a candidate who fails in more than 4 papers including backlog, if any, is not permitted to the next year of the course. He applied for revaluation and pending revaluation, the principal of the college-3rd respondent permitted him to attend the classes of third year. Marks memo of revaluation, according to him, was furnished on 25.3.2005. He paid the examination fee on 03.03.2005 for III year Pharmacy, but his application was rejected by the Principal of the college-3rd respondent. Hence, assailing the action of the respondents in not permitting him to attend III year annual examination, scheduled to be held from 28.03.2005 onwards, he has filed this writ petition.

2. He moved W.P.M.P.No.9440 of 2005 and an interim direction came to be issued to the respondents to permit the petitioner to appear for the examination, provided the petitioner is eligible as per the revaluation marks list dated 25.03.2005.

3. One Professor V.Luther Das has sworn in counter affidavit. It is stated in the counter affidavit that the petitioner failed in 5 subjects in II year and in revaluation also he could not become successful. Therefore, he applied for supplementary examination in December 2004. Indeed, he appeared in 4 papers only. For the papers he appeared in December, 2004, he applied for revaluation in respect of two papers viz., Physical Pharmacy-II and Forensic Pharmacy. As per the report of the Principal of the college, petitioner attended classes in July, August and September, 2004 only for a total number of 63 days out of 186 working days in the academic year 2004-2005. He secured 33% attendance, whereas, minimum attendance

required is 75%. The marks memo dated 25.03.2005, which was issued at the end of the academic year 2004-2005 does not confer any benefit on the petitioner to prosecute III year course in the academic year 2004-2005. The petitioner suppressed the fact of his appearing supplementary examination in 4 papers held in December, 2004.

4. The third respondent filed separate counter affidavit. One C.Prabhakara Rao, Principal of third respondent-college has sworn to the counter affidavit. It is stated in the counter affidavit that pending revaluation, the petitioner was permitted to attend III year B-Pharmacy classes. On finding that the petitioner was unsuccessful in the revaluation, a notice of detention was affixed on the notice board of the college on 7.10.2004 and thereafter, the petitioner never attended the college. It is further averred in the counter affidavit that the attendance of the petitioner, pending revaluation of his papers, throughout the III year was only 33% and therefore he was not eligible to take III year B-Pharmacy examination, scheduled in the month of March, 2005.

5. I deem it appropriate to refer paras 6 to 8 of the counter affidavit and they are:

" By Notification No.ANU/Exam/BPH/II/IV/2004 dated 30.09.2004, the University announced the revaluation results mentioning the Register Nos. of the candidates who became successful in revaluation. Petitioner's Reg.No. (Y2PH221) did not find place in the said notification, which means, petitioner was not successful in revaluation and consequently he was not entitled to prosecute 3rd year course. But, he has to study 2nd year again. Accordingly, notice dated 7.10.2004 was prepared with my signature mentioning the names of the petitioner, etc., as detained. The said notice was affixed on the Notice Board of the college to bring to the knowledge of the concerned candidates. After announcement of results of revaluation and after the notice dated 7.10.2004 mentioned above, petitioner did not attend the college. I submit that petitioner never challenged the Circular dated 30.09.2004 of University (results of revaluation) and Notice (mentioning detention) dated 7.10.2004 of the college mentioned above. On the face of the circular and notice mentioned above, petitioner is not entitled now to contend that he is entitled to prosecute 3rd year course. There is acquiescence on his part. Accepting the notice mentioned above, he made application to appear in the supplementary examination to be held in December, 2004 for the 5 papers namely,

I. Pharmaceutical Chemistry-III (Organic-II)

II. Physical Pharmacy-II

III. Anatomy & Physiology

IV. Forensic Pharmacy

V. Pharmaceutical Engg.-I

But he appeared in 4 papers only.

In respect of the above mentioned 4 papers for which the candidate appeared in December 2004, he applied for revaluation in respect of 2 papers namely (1) Physical Pharmacy-II and (2) Forensic Pharmacy. These vital, essential and relevant facts were suppressed by the petitioner with a malafide intention to mislead this Honourable Court and to gain unlawfully.

It is absolutely false to state that I orally permitted petitioner to attend the classes informing him that officially he would not be permitted to attend classes and he would be permitted to attend classes unofficially and if he gets benefit in the revaluation, his attendance could be made official. I never informed petitioner anything personally much less orally. It is absolutely false to state that the petitioner attended the classes throughout the year. As mentioned above, after the revaluation results were announced as per circular dated 30.09.2004 and after notice dated 07.10.2004 of the college was affixed on the Notice Board, petitioner did not and could not attend the classes and consequently permitting him to attend the classes did not arise at all. There was no question of allowing petitioner to attend classes unofficially."

6. Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondents 1 and 2 and counsel for the respondent No.3.

7. Learned counsel for the petitioner submits that the petitioner cleared the backlog papers of II year is supplementary examination and therefore he was eligible to attend III year classes and indeed the third respondent permitted the petitioner to attend classes and therefore the action of the respondents in not permitting him to take III year B-Pharmacy examination is arbitrary, illegal and unjustified. On the first blush, the contention appears to be sound, but after scrutiny of the material placed on record, the same is liable to be rejected. The affidavit filed in support of the writ petition shows as if the writ petitioner has cleared all the 5 papers on the first revaluation. But the counter affidavits filed by the respondents clearly establish that out of 8 papers in the II years B-Pharmacy course, the petitioner cleared only 3 papers and failed in 5 papers. He applied for revaluation and became unsuccessful. Consequently, a detention notice dated 07.10.2004 was put on the college notice board and subsequently, the petitioner applied for supplementary examination in December 2004. Out of 5 papers, he appeared in 4 papers only. He applied for revaluation in two papers and thereafter a marks memo came to be issued on 25.03.2005.

8. There is no reply affidavit from the petitioner contradicting the counter affidavit averments. It can be said without any controversy that the petitioner failed in 5 subjects in first attempt and he cleared 4 papers in supplementary examination. Before applying for supplementary examination a detention notice was placed on the notice board and thereafter, the petitioner did not attend III year B-Pharmacy course. The classes attended, even unofficially by the petitioner, was only 33%. The minimum percentage required is 75%. Therefore, the petitioner cannot be permitted to write III year B-Pharmacy examination. Therefore, the petitioner is not eligible to appear III year B-Pharmacy examination.

10. In the result, I find that the writ petition is devoid of merits and accordingly, the same is hereby dismissed. No costs.

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B.SESHASAYANA REDDY,J.

Date: 01.08.2005.

BSB